

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDWARD IBUADO,

Plaintiff,

v.

No. CIV-07-1201 WJ/LCS

PATRICK DAVIS,
TOM ASHWORTH,
ALBUQUERQUE POLICE DEPT.,
BERNALILLO SHERIFF'S OFFICER,
ISLETA PUEBLO POLICE DEPT.,
UNIV. NM POLICE DEPT.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court, *sua sponte* under 28 U.S.C. § 1915(e)(2) and Fed. R. Civ. P. 12(b)(6) and 4, to review Plaintiff's civil rights complaint. Plaintiff is incarcerated, appearing pro se, and proceeding in forma pauperis.

The complaint alleges that Defendant Davis, a University of New Mexico police officer, stopped Plaintiff for a traffic violation. Davis claimed that Plaintiff pointed a gun at him. Plaintiff fled from the stop, and Davis initiated a high-speed chase, leaving the campus grounds. Plaintiff allegedly offered no resistance when he was apprehended, but a number of unknown police officers used excessive force on him, causing injuries that required hospitalization. Plaintiff contends that Defendants' actions violated a number of his constitutional protections. The complaint seeks damages.

The caption of the complaint names the Albuquerque Police Department, the Isleta Pueblo Police Department, and the University Police Department. In the body of the complaint, Plaintiff

states that his claims are against unknown members of these agencies, and he makes no allegations to support claims of supervisory or government-entity liability. Plaintiff will be allowed a reasonable time to identify the unknown individuals. Notice and waiver of service forms will be issued for Defendants Davis and Ashworth. Based on Plaintiff's financial certificate (Doc. 13), the previously ordered initial partial payment toward the filing fee will be waived.

IT IS THEREFORE ORDERED that Plaintiff's initial partial payment toward the filing fee is WAIVED;

IT IS FURTHER ORDERED that the Clerk is directed to issue notice and waiver of service forms, with copies of the complaint, for Defendants Davis and Ashworth.

A handwritten signature in black ink, appearing to read "G. J. Smith", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE